

FORM TO BE USED BY A PRISONER FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____

ROSS FRANKLIN FAREWELL#299-888 et al.

D.O.B. October 22, 1971

NORTH BRANCH CORRECTIONAL INSTITUTION (NBCI)
14100 McMullen Hwy., S.W.

Cumberland, Maryland 21502

(Full name, date of birth, prison identification
number and address of the plaintiff)

BOBBY P. SHEARIN, WARDEN
DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES et al.

Civil Action No. PJM-13-1204
(Leave blank. To be filled in by Court.)

MARYLAND DIVISION OF CORRECTIONS
6776 Reisterstown Road
Baltimore, Maryland 21215

Unnamed Defendant's et al.

(Full name and address of the defendant(s))

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APR 23 2013

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY _____ DEPUTY T90

COMPLAINT

I. Previous lawsuits

- A. Have you filed other cases in state or federal court dealing with the same facts as in this case or against the same defendants?

YES [] NO [X]

- B. If you answered YES, describe that case(s) in the spaces below.

1. Parties to the other case(s):

Plaintiff: _____

Defendant(s): _____

2. Court (if a federal court name the district; if a state court name the city or county): _____

3. Case No.: _____

4. Date filed: _____

5. Name of judge that handled the case: _____

6. Disposition (won, dismissed, still pending, on appeal): _____

7. Date of disposition: _____

II. Administrative proceedings

A. If you are in a Division of Correction facility, did you file an administrative remedy procedure request under DCD 185-001, et seq.?

YES [☒] NO [☐]

1. If you answered YES:

a. What was the result? ARP was dismissed by Warden pursuant to 185-002.

b. Did you appeal to the Commissioner?

YES [☒] NO [☐]

2. If you answered NO to either of the questions above, explain why you did not file an administrative remedy procedure request or an appeal to the

Commissioner. _____

3. Did you file any other type of administrative complaint such as an appeal to the warden of an adjustment decision or a decision to withhold mail, a complaint to the Sundry Claims Board, etc.?

YES [☒] NO [☐]

4. If you answered YES, explain what you filed and what was the result.

Appeal was made to the Commissioner of DPSCS, who dismissed on 10/25/12. Appeal of Commissioner's decision was sent to I.G.O. and scheduled for hearing on 1/17/13 under DPSCS-IGO-002V-13-01217. On 1/11/13 Commissioner reevaluated his decision ruling in favor of Plaintiff. On 1/16/13 Warden Bobby Shearin changed mail/book policy the day before IGO hearing; and on 1/17/13 the ALJ - issued a Finding of Fact & Conclusion, as a matter of Law, that appeal of mail book policy was moot. ALJ would not grant injunctive relief. On 2/18/13 Plaintiff noted Motion of Objection/Finding of Fact/Motion to Alter, Amend

- B. If you are not in a Division of Correction facility, is there a grievance procedure at your institution?

YES [☐] NO [☐]

If your answer is YES:

1. Did you file a grievance?

YES [☐] NO [☐]

2. If you filed a grievance what was the result? _____

3. If you did not file a grievance explain why not? _____

III. Statement of claim

(Briefly state the facts of your case. Include dates, times, and places. Describe what each defendant did or how he/she is involved. If you are making a number of related claims, number and explain each claim in a separate paragraph.)

On 7/7/12 Warden of North Branch Corrections (NBCI) issued a directive stating inmates will no longer be allowed to order books unless they were pre-approved correspondence courses for Education or Religious. No books may be sent without pre-approval by Department Heads. On 1/27/12 Plaintiff wrote for his pre-approval of a Legal Thesaurus to assist him in understanding legal terms to appointed Department Head (Education Dept.), wherein his order was denied. Upon filing ARP and days prior to exhaustive IGO hearing, on 1/11/13 the DPSCS Commissioner reevaluated & found Plaintiff's grievance meritorious, as being violative of Plaintiff's 1st Amend. Const. Rights and; against DPSCS established DPSCS Policy DCD 250-1. Plaintiff sought to have injunction placed on Warden, on 1/17/13 where ALJ asserted she had no jurisdiction. On 1/28/13 NBCI's Warden put out a new policy even harsher & more restrictive than the last, which requires me to order my books from NBCI's specific 14 approved vendors; I must now have my book order pre-approved by Housing Unit Manager before its sent to Property Officer, who documents my book order and sends a copy to my Case Manager, who places a copy in my inmate base files before its forwarded to the Business Office for final processing. This procedure is against DCD 250-1 and violates my right as a Prisoner to order & receive books from free society.

IV. Relief

(State briefly what you want the Court to do for you) - See, hereto App.(1) thru (15).

- (1) Grant immediate injunction to end current pre-approval book policy and;
- (2) that I be freely allowed as a Prisoner to order & receive Books from any Book Vendor, Business or Organization in free-society, without Department Head pre-approval or Housing Unit Manager pre-approval. (3) That actual damages for out-of-pocket expenses and mental suffering incurred from on-going litigation; being done in spiteful contempt of DPSCS Commissioner's order's to Warden and; (4) nominal damages to vindicate violation of my 1st Amend. Right and; (5) That punitive damages for the on-going arbitrary, capricious and malicious conduct

SIGNED THIS 18th day of April 2013.

by DPSCS/Warden. Be in the minimum award of damages: \$10,000.00 dollars, in all.

 , EQUAL PROTECTIONS/INSTITUTIONALIZED PRISONERS, .

Thornburgh v. Abbott, 499 U.S. 401
(1989)

Ross Foewell
(original signature of plaintiff)

1400 McMillen Hwy. S.W.
Cumberland, Maryland
21502
(address of plaintiff)